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An Address by

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FRANCIS BIDDLE

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Attorney General of the United States

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LIBERAL PARTY OF NEW YORK

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Mr. Chairman, and members of the Liberal Party:

It is a great pleasure for me to be asked to talk to you on the first anniversary of the Liberal Party on the topic - "CHALLENGE TO LIBERALISM" - That is no easy assignment; for although the origin of the liberal movement is clear, its growth has been along lines of experience rather than logic. Has the liberal of today an intellectual link with his past? Does he share the same beliefs, the same fervors? What, in short, is the modern liberal? So many claim the title who are in disagreement about pretty nearly everything. Does any central impulse unite their thinking?

Since the liberal approach is dissatisfied with existing social inequalities, difference of opinion is inevitable. Behind liberalism is none of the cohesive unity of the conservative. Discontent with the injustices of our modern industrial society finds outlets in a variety of plans for its amelioration. Almost by definition liberals disagree. Therein lies both the strength and weakness of the liberal tradition - its strength because its growth is fluid, experimental and creative; its weakness because its organization tends constantly to fall apart and disintegrate. The impulse to change tends to variety and difference. The force is from the center out, not towards the center.

Plato may have had this in mind in his amusing definition of democracy as "a charming form of government, full of variety and disorder, and dispensing a kind of equality to equals and unequals alike."

The conservative movement, on the other hand, tends to hold life in orderly and traditional forms, sometimes long after they have ceased to represent the needs of a growing world. Between these two tempers of

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thinking democracy achieves, in normal times, a balance in the steadiness and yet resilience of its growth.

We must not think of the liberal movement or the conservative movement solely in political terms, or claim that our two great parties can be thus easily catalogued. Historically the Democratic Party has, on the whole, been more hospitable to the liberal than the Republican. Yet there have been periods where the two seemed indistinguishable. The vitality of our political movements and the degree of their interest in social improvement, has depended chiefly on the capacity for creative leadership in the men in whose hands power is placed. And we must also count Lincoln and Theodore Roosevelt when we remember Jefferson, Jackson, Cleveland - and Franklin Roosevelt.

Labor's participation in the political arena has been healthy - not only for Republicans, but very healthy, too, for us Democrats. All political parties, as they grow in age and tradition, tend at times to fossilize. They become professional in a narrow way, emphasize organization at the expense of policy, and patronage at the cost of efficiency. Labor has brought into our political life a new set of values, has insisted on specific things that needed to be done; has been increasingly positive and vigorous, where in the past the country has often been asked to make choices that were neither clear cut nor important.

If the price of liberty is eternal vigilance, surely the test of liberalism lies in our capacity for indignation. The mark of the liberal is his vigilance in preserving and protecting human rights.

Liberals will not accept the evils that exist simply because they have always existed - illiteracy, submarginal living standards, unemployment.

They will see men's proven capacities for creating a good standard of life and will compare them to what has been accomplished. They will hate intolerance.

Yet they will remember that the present is a part of the past, and continually be conscious of the overlap of history.

When we declared our independence we proudly said that all men were created free and equal, with the right to pursue their own happiness. In our Bill of Rights - our great charter of civil liberties - we wrote into our Constitution guaranties for freedom of worship, for freedom of speech, for trial by jury.

But that was not enough.

Human slavery lived along with these guaranties, which were not universal, until we abolished slavery by war, and adopted the three great civil war amendments to the Constitution.

Now in the midst of another war, fought to preserve and to extend those decent and precious attributes of free democratic men, we have not sacrificed in the pressure and the urgency of battle those same liberties. For even as all our will is bent to the war effort our courts are open, the press is free, and we have not found it necessary to pass any alien or sedition laws. Lord Acton said: "The most certain test by which we judge whether a country is really free is the amount of security enjoyed by minorities." We have met that test, even since the dark days that followed Pearl Harbor.

But that is not enough.

Racial hatreds have not disappeared, and the cruel discriminations of race and color and religion continue here in our own democracy, even as we fight to overthrow a system in Germany based on the exploitation of these discriminations.

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Liberals must not lose their capacity for indignation.

There is another freedom that we have not achieved and which is not found in the Bill of Rights. Jefferson writing from Paris, where he was the American Ambassador, suggested that we should insert in our Constitution a clause outlawing monopolies. Monopoly was the prerogative of the sovereign, and we had cut loose in the Revolution from the will of any sovereign except that of our own people. Almost exactly a hundred years later we wrote Jefferson's suggestion into our law by making unlawful combinations that restrained trade and competition. For we had come to know that freedom in trade - economic freedom - was essential if we were not to be ruled by the great trusts that had developed in our economy - that economic power concentrated in great monopolies was incompatible with the preservation of individual liberty.

The liberal of a hundred years ago, the liberal of the Manchester School in England, and the pioneer liberal in this country, believed that the removal of restrictions on trade and commerce would greatly expand production and increase general well-being. The feudal world had been established largely on the restricted plane of monopoly. Privilege to trade was no universal right, but largely a gift of the sovereign. Production was localized, communities largely self-supporting, exchange of goods limited, price-fixing by ordinance not uncommon. Against this system the early liberals revolted. Free trade, individual enterprise, absence from restraint - these were fundamentals to the liberal who followed the teachings of Adam Smith and John Stuart Mill. A revolution in production and distribution followed this revolution in ideas. The nineteenth century was built on

the free market, and government restraints were not permitted to interfere with its functioning.

The underlying theory of these liberal economists was that regulation of prices and the distribution of goods could best be achieved by competition. If prices rose above the competitive level automatically cheaper goods were drawn into the market. If prices dropped below a profitable return the business was driven out of existence by the healthy process of bankruptcy, and the fittest survived. This system of laissez-faire was flexible, sensitive and responsive to daily trends. It avoided artificial regulation, and substituted control of the market by the market itself.

But from the beginning the ruthlessness of laissez-faire, which sacrificed everything to competition, became apparent. Since human labor was one of the factors in competition its "price", like that of goods, was fixed by the market with little consideration for social values. And the system swept children of tender years to work and crawl in the coal mines for ten or twelve hours a day.

And since the market was not subject to control, industry was free to combine into great organizations of immense power, was free to drive out its competitors from the field, or buy them up. Thus monopolies, which as creatures of the sovereign had been driven out of the economy, returned to plague it in the form of private power that actually challenged the very government which permitted them to exist. The free market - the dream of the liberals - was apparently destroying itself.

Liberals saw these evils and took steps to check them. In England the Liberal Party caused the passage of the Factory Code in 1833, and the Public

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Health Act in 1848. But progress was slow, for laissez-faire had moved to the level of a national religion and it was considered impious to interfere with its workings. Trade unions were not legalized until 1871; and such comparatively modern reforms as workmen's compensation and old age pension were introduced a few years after the turn of the century, again by the English Liberal Party. So that the name you have adopted has a great and an honorable record.

With us almost from the beginning tariffs protected our new industries and standard of living. In 1886 the Interstate Commerce Act outlawed the rebates that had built up Standard Oil; and four years later the Antitrust law forbade monopolies and combinations that restrained trade.

The market then has never been wholly free. On the one hand, laws have been passed to protect human beings from its abuses; on the other, statutes enacted to stop its drift in the direction of monopoly and to keep open the opportunity for competition.

The dilemma that has faced the liberal from the beginning, that still faces him today, is the choice between freedom and control. He has seen that one cannot exist without the other - that freedom cannot operate in a vacuum or without a frame of law, or on the unchecked impulses of men who care solely to follow their personal advantage. For freedom is not only a personal way of life, but is part of the life of the community itself.

Today a sector of that choice is presented for decision. The free market has worked pretty well to produce and distribute the good things as well as the necessities of life. The conservative believes that much of the present social and regulatory legislation has interfered with its productive capacity.

and should be removed. The liberal insists that such legislation is necessary if the free market is to function for the good of men and women and not merely to serve some abstract economic theory. Somewhere between the two views a balance is struck.

But the choice I refer to - the choice that must be made in the post-war years - is whether we really wish to continue with the competitive system of free enterprise. And here both liberals and conservatives are confused and uncertain.

The choice is not obvious or altogether apparent. But we can see how it is beginning to shape up. There is a movement on foot which looks with favor on cartels and advocates the repeal of the Sherman Anti-Trust Act; which would permit the fixing of prices, the allocation of territories, the control of particular markets; which says that monopolies are inevitable and should be regulated by further government control. We have had a taste of that kind of regulation in our brief but unhappy N.R.A. experience.

I realize that competition is threatened. I know that there are large segments of our industry where it has disappeared. I am conscious that much thinking in Europe is against the competitive theory. Yet I dread what will become of a world where cartelization is accepted; where enormously increased regulation by the government necessarily follows, so that eventually the individual's choice of work, even his choice of where to work, will be directed.

I cannot believe that the liberal will accept such regimentation on the argument that it is inevitable. He has seen the "inevitable" happen to Germany - but he has not accepted it. He has set his whole energy towards a fuller production, and he will not understand why arrangements to limit

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that production are desirable. He will not be comfortable in any system that plans to contract rather than to expand the market. The market in our modern world must be considered in its entirety. The pressures for its control are sectional, representing separate segments of industry. resisting them the terms of the liberal's thinking must be national and universal. The liberal of today must see the world steadily and see it